

AO91 (Rev. 11/91 ND/AL) Criminal Complaint

2007 Apr-27 PM 04:07  
U.S. DISTRICT COURT  
N.D. OF ALABAMA**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ALABAMA****CRIMINAL COMPLAINT**

UNITED STATES OF AMERICA

v.

**CASE NUMBER:** MAG 07-110  


RANDALL GARRETT COLE

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. That on or about April 7, 2007, in DeKalb County, in the Northern District of Alabama, the defendant, RANDALL GARRETT COLE,

did conspire with one or more persons to make a firearm, as that term is defined in 26 USC § 5845, in violation of Title 18, United States Code, Section 371. I further state that I am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives and that this complaint is based on the following facts:

See Attached Affidavit

Continued on the attached sheet and made a part hereof:  Yes  No  
\_\_\_\_\_  
Signature of Complainant

Sworn to before me and subscribed in my presence,

4/23/07  
\_\_\_\_\_  
Dateat Birmingham, Alabama  
City and StateRobert R. Armstrong, Jr.  
United States Magistrate Judge  
Name and Title of Judicial Officer  
\_\_\_\_\_  
Signature of Judicial Officer

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ALABAMA**

**IN THE MATTER OF THE  
ARREST OF:**

**MAG: 07-**

**110  
ADAM LYNN CUNNINGHAM  
JAMES RAY MCELROY  
BONNELL HUGHES  
RANDALL GARRETT COLE  
FNU LNU (aka Jeff OSBORNE)**

[Redacted]

**AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT**

I, ADAM NESMITH, being first duly sworn, do hereby depose and state:

1. I am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). I have been so employed since September 5, 2004. For seven years prior to ATF I was employed at the Florence Police Department in Florence, AL as a police officer and criminal investigator. I have a bachelor's degree from the University of North Alabama in Sociology and Criminal Justice. I am a graduate of the Criminal Investigator Training Program and the ATF National Academy, both located at the Federal Law Enforcement Training Center in Glynco, GA. I am aware of the information contained in this affidavit from my personal investigation and from information furnished to me by other federal, state and local law enforcement officers personally involved in this investigation. The following information is submitted in support of probable cause for the arrest of LNU, FNU (aka Jeff OSBORNE).

2. Due to my training and experience as an ATF agent, I am familiar with the following federal laws:

**18 USC § 371 Conspiracy to commit offense or to defraud United States**

If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined under this title or imprisoned not more than five years, or both.

**26 USC § 5861**

It shall be unlawful for any person—

(d) to receive or possess a firearm which is not registered to him in the National Firearms Registration and Transfer Record; or  
(f) to make a firearm in violation of the provisions of this chapter;

3. On 03/20/2007, Special Agent Adam Nesmith interviewed ATF Confidential Informant (CI) # 776065-562, hereinafter referred to as CI 562. ATF Special Agent Walker Johnson conducted a criminal history check of CI 562 and learned that CI 562 is not a convicted felon. Special Agent Adam Nesmith received the following pertinent information from CI 562:

CI 562 met a forty-six year old white male named Jeff OSBORNE, NFI (No Further Information), while at a local flea market called "Trade Day", approximately three to four months ago. OSBORNE told CI 562 about a small militia he was a part of called the "Free Militia". CI 562 was eventually accepted into this organization as a Sergeant Major. During this time CI 562 has been present during conversations about the planned activities of the militia. Approximately two months ago CI 562 was shown two hand grenades by OSBORNE, who holds the rank of Major in the militia, at OSBORNE'S residence. Approximately two to two and a half weeks prior to the interview, CI 562 was at 309 County Road 871 Collinsville, AL, a residence that he/she knows is occupied by Adam Lynn CUNNINGHAM (W/M, DOB 02/11/1966 [REDACTED]). While at this residence CI 562 observed approximately four hand grenade devices on a coffee table and two empty hand grenade hulls brought in by a white male named Randy, later identified as Randall Garrett COLE (W/M, DOB 08/08/1984 [REDACTED]). Randy COLE holds the rank of Lieutenant in the militia. CI 562 did not actually see the powder inside the four on the coffee table, but assumes that they already had explosive powder in them because OSBORNE grabbed one of the four from the coffee table, quickly put a fuse and shotgun type primer inside and made the statement "That's how easy it is, this one's ready to go." CI 562 describes the devices as military training grenade hulls filled with explosive powder from fireworks, and sealed with a green fuse. OSBORNE told CI 562 that he was using explosive powder obtained from fireworks. CI 562 stated that OSBORNE told him/her that he could sell CI 562 some of the grenades because he needed money to buy additional grenade hulls from surplus stores. CI 562 states that the hand grenades are stored at CUNNINGHAM'S residence, 309 County Road 871 Collinsville, AL, because OSBORNE lives in a small camper. CUNNINGHAM is also storing the militia's rifles and ammunition at his residence.

4. Due to subsequent information from CI 562 that OSBORNE and CUNNINGHAM had hidden there supply of grenades due to explosive search warrants executed by ATF and the Alabama State Fire Marshal's Office in Etowah County, Alabama on an unrelated case, a search warrant was not obtained for CUNNINGHAM'S residence due to the risk of not finding the grenades and exposing the investigation. OSBORNE told CI 562 that "the heat is on".

5. Utilizing CI 562 ATF agents continued the investigation by allowing an eager OSBORNE to show CI 562 how to construct these grenades. On March 29, 2007 CI 562 traveled with OSBORNE to Bynum, Alabama to the Outpost Military Surplus store and purchased twelve empty military training grenade hulls. On April 7, 2007 OSBORNE, along with militia members Randy COLE, James Ray MCELROY "Jay" (W/M, DOB 05/08/1986, SSN 424-23-6237) and Josh LNU (W/M, NFI) assisted in the preparation of the training grenade hulls. Randy COLE can clearly be seen welding the holes in the bottom of the twelve hulls from a video/audio device placed in the garage by SA Nesmith. COLE can also be seen making welds on a homemade silencer that the militia is attempting to perfect. OSBORNE is present during the welding of the grenade hulls and directly assists in the construction of the silencer. OSBORNE can be heard giving specific instructions to COLE, James MCELROY, Josh LNU and CI 562 as to how the silencer needs to be constructed. Josh LNU is present during the welding of the grenade hulls and plays a small part in the construction of the silencer. James MCELROY is present during the welding of the grenade hulls and the construction of the silencer.

6. On April 11, 2007 CI 562 notified SA Nesmith that he was asked by Jeff OSBORNE to come to Adam CUNNINGHAM'S residence in Collinsville, Alabama and bring the partially completed silencer with him. CI 562 did so and was introduced to two additional members of the "Free Militia", CI 562 met a Bill HUDSON, a Colonel in the militia, and Bonnell "Buster" HUGHES (W/M, DOB 10/26/1949, SSN 422-74-0204), who holds the rank of Captain. During an audio recorded conversation HUGHES tells CI 562 that he will take the silencer back to his house and complete it. HUGHES gives CI 562 a verbal list of his arsenal at his residence which includes 80 hand grenades. Hughes tells CI 562 that he needs twenty two (22) more, and that he already has the powder.

7. On April 13, 2007 CI 562 notified SA Nesmith that "Free Militia" members came to his residence to continue work on the twelve grenades. CI 562 activated the same video/audio recording equipment as on April 7, 2007. CI 562 stated that MCELROY spray painted the grenade spoons and assisted OSBORN with stripping the aluminum sheathing from the fuse assembly.

8. On April 17, 2007 SA Nesmith placed an audio transmitter/recorder on CI 562, as well as a video/audio recorder, prior to CI 562 going to Adam CUNNINGHAM'S residence. OSBORNE planned to finish the fuse assembly construction for CI 562's grenades at CUNNINGHAM'S residence that night. On the audio recording CUNNINGHAM can be heard bragging about how well the militia's grenades are hidden. CUNNINGHAM claims to know the wooded area behind his house better than anyone, and told CI 562 not to worry about anyone finding the grenades.

9. On April 19, 2007 CI 562 notified SA Nesmith that he was asked by OSBORNE to take him to the residence of Adam CUNNINGHAM to hide his "grenade making kit" in the woods. CI 562 took OSBORNE to CUNNINGHAM'S residence where James MCELROY showed CI 562 where the militia's stash of

grenades was hidden in the woods. CI 562 said that there were two military ammunition cans hidden underneath a large rock which is slanted out of the ground near a dead tree, leaning up against another dead tree, about 75 yards directly behind CUNNINGHAM'S residence. One ammunition can contained approximately twenty three (23) completed hand grenades and the other contained one grenade hull, and all components needed to complete the grenade, except for explosive powder. OSBORNE did not accompany MCELROY and 562 to the hiding place due to recent knee problems.

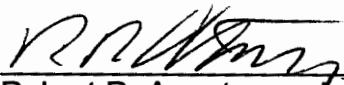
WHEREFORE, based upon the above, your Affiant has probable cause to believe that Jeff OSBORNE, Adam CUNNINGHAM, Randall COLE, James MCELROY, and Josh LNU did conspire with one another to make a firearm, as that term is defined in 26 USC § 5845, to wit, twelve destructive devices (twelve hand grenades), in violation of Title 18, U.S.C. § 371.

WHEREFORE, based upon the above, your Affiant has probable cause to believe that Bonnell HUGHES did conspire with FNU LNU (aka Jeff OSBORNE), Randall COLE, James MCELROY and Josh LNU to make a firearm, as that term is defined in 26 USC § 5845, to wit, a silencer, in violation of Title 18, U.S.C. § 371.



\_\_\_\_\_  
Adam Nesmith  
Special Agent, ATF

Sworn and subscribed to me  
this 23<sup>rd</sup> day of April, 2007.



\_\_\_\_\_  
Robert R. Armstrong, Jr.  
UNITED STATES MAGISTRATE JUDGE  
United States District Court  
Northern District of Alabama